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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,951	12/29/2004	Markus Oles	263603US3X PCT	7365
22850 7590 06/18/2009 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER WATKINS III, WILLIAM P				
ART UNIT 1794		PAPER NUMBER		
NOTIFICATION DATE 06/18/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Attachment to Advisory Action

1. The amendment after final filed 08 June 2009 had been entered. The amendment of the claims has overcome the first paragraph 112 written description rejection given in section 2 of the detailed portion of the office action mailed 06 March 2009. The art rejections in sections 4 and 5 of the detailed portion of the office action will be maintained in the event of an appeal, as well as the obviousness type double patenting rejections given in section 7, 8, 9, 10, 11, 12, 13, and 14 of the detailed portion of the office action mailed 06 March 2009.
2. Applicant's arguments filed 08 June 2009 have been fully considered but they are not persuasive.

Applicant argues regarding Keller that the molding and extrusion steps required to make an article entirely out of the disclosed binder and particle compositions of the reference would not result in a self cleaning surface with a surface structure. The examiner disagrees as the methods are taught in the reference as making a self cleaning surface and thus must have some exposure of particles at the surface in order to have the enhanced self cleaning ability and high water contact angles of the compositions taught in the reference over those for the binders only (sections 0021 and 0025). A circular particle with only limited partial exposure through the surface could easily have an aspect ratio of .3 (height to width). The reference explicitly talks about structured surfaces being self cleaning (section 0008).

Regarding Krech applicant argues that there is a size difference between the particles of Krech and those of Keller et al. While this is true to some extent, there is overlap in the ranges. The position of the examiner is that this mere size difference would not deter one of ordinary skill in the art from transferring the teachings as the principles of the thermal spraying are the same regardless of any size difference. The examiner notes that the particle size range for Keller et al. is .05 to 100 microns (section 006), while Krech teaches a particle size range of 5 to 6550 microns. Applicant also argues that thermal spraying would not be operative in all of the embodiments of Keller et al such as wood and metal substrates. The examiner is of the position that one of ordinary skill in the art would be able to select the embodiments of Keller et al. that have surfaces that could be melted by thermal spraying of particles and would seek to do so because of the advantage of not having to use solvents and other advantages taught by Krech.

The examiner notes that applicant has deferred a substantive response to the double patenting rejections. In the event of an appeal, these rejections either need to be overcome by the filing of a terminal disclaimer or need to be fully argued in the brief. The brief will be considered as defective or applicant will lose the right to present future arguments regarding the double patenting rejections, if no arguments regarding them are presented in the appeal brief.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be

reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WW/ww
June 16, 2009

/William P. Watkins III/

Primary Examiner, Art Unit 1794